

## HOUSE BILL NO. 111

INTRODUCED BY T. HENRY

BY REQUEST OF THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN ADVISORY COUNCIL THAT COLLABORATES WITH THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES AND LOCAL ADVISORY COUNCILS TO PLAN AND EVALUATE PUBLIC MENTAL HEALTH CARE; PROVIDING AN INTERAGENCY SYSTEM FOR TRACKING CHILDREN IN NEED OF MENTAL HEALTH SERVICES; ESTABLISHING MEMBERSHIP OF LOCAL ADVISORY COUNCILS; ALLOWING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO ESTABLISH SEPARATE ADVISORY COUNCILS FOR YOUTH AND ADULT MENTAL HEALTH SYSTEMS; PROVIDING RULEMAKING AUTHORITY; CLARIFYING THAT SERVICE AREA AUTHORITIES ARE INTENDED FOR ADULT MENTAL HEALTH SERVICES; CLARIFYING DUTIES OF SERVICE AREA AUTHORITIES; AMENDING SECTIONS 52-2-304, 53-6-1101, 53-21-702, 53-21-703, 53-21-1001, 53-21-1002, AND 53-21-1006, MCA; AND REPEALING SECTION 53-21-1013, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION.** **Section 1. Purpose.** The purpose of this part is to:

- (1) promote services that allow a person with a mental illness to live a meaningful life in the community;
- (2) create an advisory council that collaborates with the department of public health and human services and local advisory councils to plan and evaluate public mental health care within budget constraints;
- (3) promote consumer and family leadership within the public mental health system;
- (4) foster a consumer- and family-driven system of public mental health care that advances:
  - (a) strength-based planning sensitive to individual needs;
  - (b) access to a continuum of mental health services with an emphasis on community-based services;
- and
- (c) individual choice of services and providers; and
- (5) plan for a system that enables effective transitions.

**Section 2.** Section 52-2-304, MCA, is amended to read:

1           **"52-2-304. Committee duties.** (1) The committee established in 52-2-303 shall, to the extent possible

2    within existing resources:

3           (a) develop policies aimed at eliminating or reducing barriers to the implementation of a system of care;

4           (b) provide a system for tracking children who need mental health services that are provided under  
5    substantive interagency agreements between state agencies responsible for addictive and mental disorders,  
6    foster care, developmental disabilities, special education, and juvenile corrections;

7           ~~(b)~~(c) promote the development of an in-state quality array of core services in order to assist in returning  
8    high-risk children with multiagency service needs from out-of-state placements, limiting and preventing the  
9    placement of high-risk children with multiagency service needs out of state, and maintaining high-risk children  
10   with multiagency service needs within the least restrictive and most appropriate setting;

11          ~~(e)~~(d) advise local agencies to ensure that the agencies comply with applicable statutes, administrative  
12   rules, and department policy in committing funds and resources for the implementation of unified plans of care  
13   for high-risk children with multiagency service needs and in making any determination that a high-risk child with  
14   multiagency service needs cannot be served by an in-state provider;

15          ~~(d)~~(e) encourage the development of local interagency teams with participation from representatives from  
16   child serving agencies who are authorized to commit resources and make decisions on behalf of the agency  
17   represented;

18          ~~(e)~~(f) specify outcome indicators and measures to evaluate the effectiveness of the system of care; and

19          ~~(f)~~(g) develop mechanisms to elicit meaningful participation from parents, family members, and youth  
20   who are currently being served or who have been served in the children's system of care; and

21          ~~(g) take into consideration the policies, plans, and budget developed by any service area authority~~  
22   ~~provided for in 53-21-1006.~~

23          (2) The committee shall coordinate responsibility for the development of a stable system of care for  
24   high-risk children with multiagency service needs that may include, as appropriate within existing resources:

25          (a) pooling funding from federal, state, and local sources to maximize the most cost-effective use of  
26   funds to provide services in the least restrictive and most appropriate setting to high-risk children with multiagency  
27   service needs;

28          (b) applying for federal waivers and grants to improve the delivery of integrated services to high-risk  
29   children with multiagency service needs;

30          (c) providing for multiagency data collection and for analysis relevant to the creation of an accurate

1 profile of the state's high-risk children with multiagency service needs in order to provide for the use of services  
2 based on client needs and outcomes and use of the analysis in the decisionmaking process;

3 (d) developing mechanisms for the pooling of human and fiscal resources; and

4 (e) providing training and technical assistance, as funds permit, at the local level regarding governance,  
5 development of a system of care, and delivery of integrated multiagency children's services.

6 (3) (a) In order to maximize integration and minimize duplication, the local interagency team, provided  
7 for in subsection ~~(1)(d)~~ (1)(e), may be facilitated in conjunction with an existing statutory team for providing youth  
8 services, including:

9 (i) a child protective team as provided for in 41-3-108;

10 (ii) a youth placement committee as provided for in 41-5-121 and 41-5-122;

11 (iii) a county interdisciplinary child information team or an auxiliary team as provided for in 52-2-211;

12 (iv) a foster care review committee as provided for in 41-3-115;

13 (v) a local citizen review board as provided for in 41-3-1003; and

14 (vi) a local advisory council as provided for in 53-21-702.

15 (b) If the local interagency team decides to coordinate and consolidate statutory teams, it shall ensure  
16 that all state and federal rules, laws, and policies required of the individual statutory teams are fulfilled."  
17

18 **Section 3.** Section 53-6-1101, MCA, is amended to read:

19 **"53-6-1101. Prevention and stabilization account -- allocation of proceeds.** (1) There is a prevention  
20 and stabilization account in the state special revenue fund provided for in 17-2-102. Money in the account must  
21 be used by the department of public health and human services to finance, administer, and provide health and  
22 human services.

23 (2) (a) Funds in the prevention and stabilization account must be used for the following programs in order  
24 of priority:

25 (i) prescription drugs for adults with a serious and disabling mental illness eligible for programs initiated  
26 pursuant to ~~53-21-702(2) and (3)~~ 53-21-702(3) and (4);

27 (ii) child care for low-income families;

28 (iii) the Montana initiative for the abatement of mortality in infants administered pursuant to 50-19-301;

29 (iv) independent living;

30 (v) extended employment;

- (vi) child support enforcement state matching funds;  
(vii) stabilization of rates for medicaid mental health services;  
(viii) medicaid hospice services;  
(ix) home health therapy services;  
(x) poison control; and  
(xi) AIDS funds.

(b) Funds remaining after allocations to the priorities in subsection (2)(a) may be expended for other programs as directed in 17-6-606(1).

(c) Appropriations from the prevention and stabilization account for programs listed in subsection (2)(a) are restricted for the use specified and may not be transferred to other programs pursuant to 17-7-139."

**Section 4.** Section 53-21-702, MCA, is amended to read:

**"53-21-702. Mental health care system -- eligibility -- services -- advisory council.** (1) The department of public health and human services shall develop a delivery system of mental health care from providers or other entities that are able to provide administration or delivery of mental health services. The public mental health care system shall:

(a) include specific outcome and performance measures for the administration or delivery of a continuum of mental health services;

(b) provide level-of-care appeals that are understandable and accessible; and

(b)(c) provide for local advisory councils that shall be established for community-based planning and that report to and meet on a regular basis with the advisory council provided for in subsection (4) (5);

~~(c) provide level-of-care appeals that are understandable and accessible; and~~

~~(d) provide a system for tracking children who need mental health services that are provided under substantive interagency agreements between state agencies responsible for addictive and mental disorders, foster care, children with developmental disabilities, special education, and juvenile corrections.~~

(2) Local advisory councils may include members who represent persons with mental illness, advocates for persons with mental illnesses and their families, representatives of local government and law enforcement, the public, providers of mental health services, and legislators.

~~(2)(3)~~ The department may establish resource and income standards of eligibility for mental health services that are more liberal than the resource and income standards of eligibility for physical health services.

1 The standards of eligibility for mental health services may provide for eligibility for households not eligible for  
2 medicaid with family income that does not exceed 160% of the federal poverty threshold or that does not exceed  
3 a lesser amount determined at the discretion of the department. The department may by rule specify under what  
4 circumstances deductions for medical expenses should be used to reduce countable family income in determining  
5 eligibility. The department may also adopt rules establishing fees, premiums, or copayments to be charged  
6 recipients for services. The fees, premiums, or copayments may vary according to family income.

7 ~~(3)~~(4) The department shall establish the amount, scope, and duration of services to be provided under  
8 the program. Services for nonmedicaid-eligible individuals may be more limited than those services provided to  
9 medicaid-eligible individuals. Services to nonmedicaid-eligible individuals may include a pharmacy benefit.

10 ~~(4)~~(5) (a) The department shall form an advisory council, to be known as the mental health oversight  
11 system advisory council, to monitor, review, and evaluate, not less than once a year, the allocation and adequacy  
12 of resources within the state and to provide input to the department in the development and management of any  
13 public mental health system. The advisory council is not subject to 2-15-122. The advisory council membership  
14 must include:

15 (i) one-half of the members as consumers of mental health services, including persons with serious  
16 mental illnesses who are receiving public mental health services, other recipients of mental health services,  
17 former recipients of public mental health services, and immediate family members of recipients of mental health  
18 services; and

19 (ii) advocates for consumers or family members of consumers, members of the public at large, providers  
20 of mental health services, legislators, and department representatives.

21 (b) The advisory council under this section may be administered so as to fulfill any federal advisory  
22 council requirements to obtain federal funds for this program.

23 (c) Geographic representation must be considered when appointing members to the advisory council  
24 in order to provide the widest possible representation.

25 (d) The department may establish separate advisory councils for the youth and adult mental health  
26 systems. If separate councils are established, they shall meet together at least annually.

27 ~~(d)~~(e) The advisory council shall provide ~~a summary of each meeting and a copy of any~~  
28 ~~recommendations made to the department and to the legislative finance committee and any other designated~~  
29 ~~appropriate legislative interim committee. The department shall provide the same committees~~ advisory council  
30 and the committee with the department's rationale for not accepting or implementing any recommendation of the

1 advisory council."

2

3 **Section 5.** Section 53-21-703, MCA, is amended to read:

4 **"53-21-703. Rulemaking authority.** (1) The department of public health and human services shall adopt  
5 appropriate rules necessary for the administration of a program to provide mental health ~~managed~~ care services.  
6 The rules must establish eligibility criteria and may include but are not limited to financial standards and criteria  
7 for income and resources, treatment of resources, nonfinancial criteria, residency, application, termination,  
8 definition of terms, and confidentiality of applicant and recipient information.

9 (2) The department shall adopt rules establishing the amount, scope, and duration of services. The rules  
10 may also include but are not limited to ensuring that services are medically necessary and that the services are  
11 the most efficient and cost-effective available.

12 (3) The department may adopt rules establishing rates of reimbursement of services provided under this  
13 part, selection and qualification of providers, and standards for ~~managed~~ care.

14 (4) Rules adopted by the department must take into account, when appropriate, the availability of  
15 appropriated funds, the actual costs of services, the quality of services, the professional knowledge and skills  
16 necessary for the delivery of services, and the availability of services."

17

18 **Section 6.** Section 53-21-1001, MCA, is amended to read:

19 **"53-21-1001. Definitions.** As used in this part, the following definitions apply:

20 (1) "Community mental health center" means a licensed mental health center that provides  
21 comprehensive public mental health services in a multicounty region under contract with the department,  
22 counties, or one or more service area authorities.

23 (2) "Department" means the department of public health and human services as provided for in  
24 2-15-2201.

25 (3) "Licensed mental health center" means an entity licensed by the department of public health and  
26 human services to provide mental health services and has the same meaning as mental health center as defined  
27 in 50-5-101.

28 (4) "Service area" means a region of the state as defined by the department by rule within which adult  
29 mental health services are administered.

30 (5) "Service area authority" means an entity, as provided for in 53-21-1006, that has incorporated to

1 ~~collaborate with the department for the planning and oversight of~~ adult mental health services within a service  
2 area."

3  
4 **Section 7.** Section 53-21-1002, MCA, is amended to read:

5 **"53-21-1002. Duties of department.** The department:

6 (1) shall take cognizance of matters affecting the mental health of the citizens of the state;

7 (2) shall initiate mental health care and treatment, prevention, and research as can best be accomplished  
8 by community-centered services. The department shall initiate and operate services in cooperation with local  
9 agencies, service area authorities, mental health professionals, and other entities providing services to persons  
10 with mental illness.

11 (3) shall specifically address:

12 (a) provider contracting;

13 (b) service planning;

14 (c) preadmission screening and discharge planning;

15 (d) quality management;

16 (e) utilization management and review;

17 (f) consumer and family education; and

18 (g) rights protection;

19 (4) shall collect and disseminate information relating to mental health;

20 (5) shall prepare and maintain a comprehensive plan to develop public mental health services in the state  
21 and to establish service areas;

22 (6) must receive from agencies of the United States and other state agencies, persons or groups of  
23 persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies, materials, and  
24 contributions for the development of mental health services within the state;

25 (7) shall establish qualified provider certification standards by rule, which may include requirements for  
26 national accreditation for mental health programs that receive funds from the department;

27 (8) shall perform an annual review and evaluation of mental health needs and services within the state  
28 by region and evaluate the performance of programs that receive funds from the department for compliance with  
29 federal and state standards;

30 ~~(9) shall coordinate state and community resources to ensure comprehensive delivery of services to~~

1 ~~children with emotional disturbances, as provided in Title 52, chapter 2, part 3, and submit at least a biennial~~  
2 ~~report to the governor and the legislature concerning the activities and recommendations of the department and~~  
3 ~~service providers; and~~

4 ~~(4)(9)~~ shall coordinate the establishment of service area authorities, as provided in 53-21-1006, to  
5 collaborate with the department in the planning and oversight of mental health services in a service area."  
6

7 **Section 8.** Section 53-21-1006, MCA, is amended to read:

8 **"53-21-1006. Service area authorities -- leadership committees -- boards -- plans.** (1) In the  
9 development of a service area authority, public meetings must be held in communities throughout a service area  
10 as defined by the department by rule. The purpose of the meetings is to assist the department to establish a  
11 stakeholder leadership committee. The meetings must be designed to solicit input from consumers of services  
12 for persons with mental illness, advocates, family members of persons with mental illness, mental health  
13 professionals, county commissioners, and other interested community members.

14 (2) The leadership committee within each service area must include but is not limited to a significant  
15 portion of consumers of services for persons with mental illness, family members of persons with mental illness,  
16 and a mental health services provider. The department shall provide assistance for the development of a  
17 leadership committee. The department shall approve a leadership committee within each service area.

18 (3) The leadership committee within each service area shall establish a service area authority board and  
19 create bylaws that describe the board's functions and method of appointment. The bylaws must be submitted to  
20 the department for review. The majority of the members of the board must be consumers of mental health  
21 services and family members of consumers.

22 (4) The service area authority board must be established under Title 35, chapter 2. Nonprofit  
23 corporations incorporated for the purposes of this part may not be considered agencies of the department or the  
24 state of Montana.

25 (5) A service area authority board:

26 (a) shall collaborate with the department for purposes of planning and oversight of mental health services  
27 of the service area, including:

28 (i) ~~provider contracting~~ surveys of consumer satisfaction;

29 ~~(ii) quality and outcome management;~~

30 ~~(iii)~~ (ii) service planning; and

(iv) ~~utilization management and review;~~

(v) ~~preadmission screening and discharge planning;~~

(vi) ~~(iii)~~ consumer advocacy and family education and rights protection;

(vii) ~~infrastructure;~~

(viii) ~~information requirements; and~~

(ix) ~~procurement processes;~~

(b) ~~shall review and monitor crisis intervention programs established pursuant to 53-21-139;~~

(e)(b) shall submit a biennial review and evaluation of mental health service needs and services within the service area to the department and to the mental health system advisory councils established in 53-21-702;

(d)(c) shall keep all records of the board and make reports required by the department;

(e)(d) may enter into contracts with the department for purposes of planning and oversight of the service area if the department certifies that the service area authority is capable of assuming the duty;

(f)(e) may receive and shall administer funding available for the provision of ~~mental health~~ services, including grants from the United States government and other agencies, receipts for established fees rendered, taxes, gifts, donations, and other types of support or income. All funds received by the board must be used to carry out the purposes of this part.

(g)(f) may reimburse board members for actual and necessary expenses incurred in attending meetings and in the discharge of board duties as assigned by the board; and

(h)(g) shall either include a county commissioner or work closely with county commissioners in the service area; and

(i) ~~shall take into consideration the policies, plans, and budget developed by the children's system of care planning committee provided for in 52-2-303.~~

(6) A service area authority may not directly provide mental health services."

**NEW SECTION. Section 9. Repealer.** Section 53-21-1013, MCA, is repealed.

**NEW SECTION. Section 10. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 53, chapter 21, part 7, and the provisions of Title 53, chapter 21, part 7, apply to [section 1].

- END -